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APPENDIX TO PART 146—GUIDELINES FOR DETERMINING PRODUCIBILITY AND RELATIVE VALUES FOR OIL REFINERY ZONES

AUTHORITY: 19 U.S.C. 66, 81a–81u, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1623, 1624.

SOURCE: T.D. 86–16, 51 FR 5049, Feb. 11, 1986, unless otherwise noted.

§ 146.0 Scope.

Foreign trade zones are established under the Foreign Trade Zones Act and the general regulations and rules of procedure of the Foreign Trade Zones Board contained in 15 CFR part 400. This part 146 of the Customs Regulations governs the admission of merchandise into a foreign trade zone, manipulation, manufacture, or exhibition in a zone; exportation of the merchandise from a zone; and transfer of merchandise from a zone into Customs territory.

Subpart A—General Provisions

§ 146.1 Definitions.

(a) The following words, defined in section 1 of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a), are given the same meaning when used

in this part, unless otherwise stated: “Board”, “Grantee”, and “Zones”.

(b) The following are general definitions for the purpose of this part:

(1) *Act*. “Act” means the Foreign-Trade Zones Act of June 18, 1934, as amended (48 Stat. 998–1003; 19 U.S.C. 81a–u).

(2) *Activation*. “Activation” means approval by the grantee and port director for operations and for the admission and handling of merchandise in zone status.

(3) *Admit*. “Admit” means to bring merchandise into a zone with zone status.

(4) *Alteration*. “Alteration” means a change in the boundaries of an activated zone or subzone; activation of a separate site of an already-activated zone or subzone with the same operator at the same port; or the relocation of an already-activated site with the same operator.

(5) *Customs territory*. “Customs territory” is the territory of the U.S. in which the general tariff laws of the U.S. apply. “Customs territory of the United States” includes only the States, the District of Columbia, and Puerto Rico. (General Note 2, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202)).

(6) *Constructive transfer*. “Constructive transfer” is a legal fiction which permits acceptance of a Customs entry for merchandise in a zone before its physical transfer to the Customs territory.

(7) *Deactivation*. “Deactivation” means voluntary discontinuation of the activation of an entire zone or subzone by the grantee or operator. Discontinuance of the activated status of only a part of a zone site is an alteration.

(8) *Default*. “Default” means an action or omission that will result in a claim for duties, taxes, charges, or liquidated damages under the Foreign Trade Zone Operator Bond.

(9) *Merchandise*. “Merchandise” includes goods, wares and chattels of every description, except prohibited merchandise. Building materials, production equipment, and supplies for use in operation of a zone are not “merchandise” for the purpose of this part.

(10) *Domestic merchandise*. “Domestic merchandise” is merchandise which has been (i) produced in the U.S. and not exported therefrom, or (ii) previously imported into Customs territory and properly released from Customs custody.

(11) *Foreign merchandise*. “Foreign merchandise” is imported merchandise which has not been properly released from Customs custody in Customs territory.

(12) *Conditionally admissible merchandise*. “Conditionally admissible merchandise” is merchandise which may be imported into the U.S. under certain conditions. Merchandise which is subject to permits or licenses, or which may be reconditioned to bring it into compliance with the laws administered by various Federal agencies, is an example of conditionally admissible merchandise.

(13) *Prohibited merchandise*. “Prohibited merchandise” is merchandise the importation of which is prohibited by law on grounds of public policy or morals, or any merchandise which is excluded from a zone by order of the Board. Books urging treason or insurrection against the U.S., obscene pictures, and lottery tickets are examples of prohibited merchandise.

(14) *Fungible merchandise*. “Fungible merchandise” means merchandise which for commercial purposes is identical and interchangeable in all situations.

(15) *Operator*. “Operator” is a corporation, partnership, or person that operates a zone or subzone under the terms of an agreement with the zone grantee. Where used in this part, the term “operator” also applies to a “grantee” that operates its own zone.

(16) *Reactivation*. “Reactivation” means a resumption of the activated status of an entire area that was previously deactivated without any change in the operator or the area boundaries. If the boundaries are different, the action is an alteration. If the operator is different, it is an activation.

(17) *Subzone*. “Subzone” is a special-purpose zone established as part of a zone project for a limited purpose, that cannot be accommodated within an existing zone. The term “zone” also ap-

plies to a subzone, unless specified otherwise.

(18) *Transfer*. “Transfer” means to take merchandise with zone status from a zone for consumption, transportation, exportation, warehousing, cartage or lighterage, vessel supplies and equipment, admission to another zone, and like purposes.

(19) *Unique identifier*. “Unique identifier” means the numbers, letters, or combination of numbers and letters that identify merchandise admitted to a zone with zone status.

(20) *User*. “User” means a person or firm using a zone or subzone for storage, handling, or processing of merchandise.

(21) *Zone lot*. “Zone lot” means a collection of merchandise maintained under an inventory control method based on specific identification of merchandise admitted to a zone by lot.

(22) *Zone site*. “Zone site” means the physical location of a zone or subzone.

(23) *Zone status*. “Zone status” means the status of merchandise admitted to a zone, i.e., nonprivileged foreign, privileged foreign, zone restricted, or domestic.

[T.D. 86–16, 51 FR 5049, Feb. 11, 1986, as amended by T.D. 89–1, 53 FR 51263, Dec. 21, 1988]

§146.2 Port director as Board representative.

The port director where the zone is located shall be in charge of the zone as the representative of the Board.

§146.3 Customs supervision.

(a) *Assignment of Customs officers*. Customs officers will be assigned or detailed to a zone as necessary to maintain appropriate Customs supervision of merchandise and records pertaining thereto in the zone, and to protect the revenue.

(b) *Supervision*. Customs supervision over any zone or transaction provided for in this part will be in accordance with §101.2(c) of this chapter. The port director may direct a Customs officer to supervise any transaction or procedure at a zone. Supervision may be performed through a periodic audit of the operator’s records, quantity count of goods in a zone inventory, spot check of selected transactions or procedures,